U.S. Small Business Administration

If you have any questions regarding this report, please contact SBA's FOIA Chief Oreoluwa Fashola at oreoluwa.fashola@sba.gov.

Content of Fiscal Year 2022 Chief FOIA Officer Reports

(High-Volume Agencies)

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(SBA Chief FOIA Officer)

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Leadership

1. The Freedom of Information Act (FOIA) requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at this level?

Yes

2. Please provide the name and title of your agency's Chief FOIA Officer.

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B. FOIA Training

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel?

SBA reinstituted FOIA web-based training.

4. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice.

Yes.

5. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

Web-based training was provided and a general introduction and overview of FOIA was covered. Additionally, some SBA staff with additional FOIA duties were able to attend the Virtual Introduction to the Freedom of Information Act Seminar.

6. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

83%

7. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

No

C. Outreach

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

No.

D. Other Initiatives

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:

- how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and
- if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

SBA’s FOIA web-based training is open to all in the Agency, notification is sent through the Agency newsletter.

OGC conducts briefings for senior leaders on SBA obligations and expectations on an ad hoc basis.

11. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

No additional initiatives.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

DOJ's FOIA Guidelines emphasize that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

1. For Fiscal Year 2021, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A of your agency's Fiscal Year 2021 Annual FOIA Report.

49.55 Days

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Follow-up with OGC and program offices 5 days after assignment of request to ensure response to any request for expedited processing are timely met within 10 days.

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

Yes. SBA published its FOIA regulation in the CFR on October 5, 2017.

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and

making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

Yes, SBA updated and published its SOP in May 2018.

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs. 6. Does your agency frequently receive common categories of first-party requests? If so, please describe the types of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?

N/A

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

Yes

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

Loss verification reports are handled directly by SBA loan centers.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.

The agency’s full-time FOIA staff routinely conducts self-assessments of the program to determine timeliness and quality of the agency’s responses. The FOIA team creates custom weekly management reports in the FOIAonline system to assess the timeliness of the agency’s responses. More qualitative assessments are achieved by review of all SBA components’ final responses. We continuously streamline processes related to intake and assignment, clarification of new requests, and FOIA fee assessment.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency’s FOIA Public Liaison during FY 2021 (please provide a total number or an estimate of the number).

Estimated 2000.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes, the Office of Disaster Assistance to date has received the most requests within SBA, they have added additional temporary staff to meet the increased demand.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

In consultation with the Office of General Counsel (OGC) and the program offices, identify frequently requested records that are of importance to the public.

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

The Agency's most significant proactive disclosure postings are SBA's complete loan level 7(a) and 504 data sets and data dictionary from January 1, 1990, to present found here:

https://www.sba.gov/about-sba/sba-performance/open-government/foia/frequently-requested-records/sba-7a-504-loan-data-reports

These data sets represent the agency's most frequently requested information.

In addition, SBA has also posted data from the Paycheck Protection Program:

https://sba.box.com/s/5myd1nxutoq8wxecx2562baruz774si6

SBA has also posted information on various funding programs authorized by the CARES Act for small businesses:

Economic Injury Disaster Loans (EIDL)

https://www.sba.gov/document/report-covid-19-eidl-reports-2020

https://www.sba.gov/document/report-covid-19-eidl-advance-reports-2020

https://www.sba.gov/document/report-covid-19-eidl-advance-reports-2020

https://www.sba.gov/document/report-covid-19-eidl-reports-2022

https://data.sba.gov/dataset/covid-19-eidl

Restaurant Revitalization Fund

https://data.sba.gov/dataset/rrf-foia

Shuttered Venue Operators Grant

https://www.sba.gov/funding-programs/loans/covid-19-relief-options/shuttered-venue-operators-grant/svog-data

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority

Yes

Office of Hearings and Appeals decisions:

https://www.sba.gov/about-sba/oversight-advocacy/office-hearings-appeals/oha-decisions

Office of the Chief Financial Officer/Office of Capital Access

https://www.sba.gov/document?search=weekly%20lending%20reports&documentType=Report

https://www.sba.gov/document/report-small-business-administration-loan-program-performance

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

The agency has changed the visual appearance of the SBA.gov website. Larger font, easy-to-read white space v. lettering format, improved quality and relevancy of the SBA program content posted are all noticeable improvements. These improvements are a result of collaborative efforts by the Office of Communications and Public Liaison and the Office of the Chief Information Officer.

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Yes, in June 2021 the Consumer Financial Protection Bureau (CFPB) met with SBA and discussed:

SBA's general method for determining what loan-level data to publish, regardless of whether the data identifies or de-identifies loan/guarantee recipients. For example: (1) whether policy decisions are made to first determine what data fields are candidates for publication and (2) following that determination, if privacy or other considerations shape what data to modify or withhold data from publication.

In deciding whether to modify or withhold data, whether there are particular harms or sensitivities that SBA considers with respect to small business applicants and borrowers and their owners.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes

The majority of the agency's statistical data is posted online or is retrievable through electronic databases. Email searches are done by OCIO through the Microsoft Exchange Server and is coordinated by OGC.

FOIA professional staff and those with FOIA responsibilities now utilize Adobe Pro for review and redaction of records.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

N/A

3. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

No, SBA conducted a refresh of its websites and altered the link which was different than the link submitted to FOIA.gov.

5. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2022.

We have identified a point of contact with the offices responsible for maintaining and updating the SBA FOIA page, for notification of any changes.

6. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

https://www.sba.gov/sites/default/files/2021-11/SBA-RawDataExport%20%281%29.csv

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2020 Annual FOIA Report and, when applicable, your agency's 2019 Annual FOIA Report.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Yes

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2020?

No, 28.29

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

62%

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A.

B. Backlogs

When answering these questions, please refer to your Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

No.

6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

Yes.

7. If your agency's request backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

An increase in the number of incoming requests.

Staff Retention.

8. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2021.

Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

12%

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

Yes

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

No

11. If your agency's appeal backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

N/A

12. If you had an appeal backlog, please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

N/A

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last

year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2021?

N/A

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

The three offices within SBA that receive the majority of the requests the Office of Capital Access (OCA), Office of Inspector General (OIG), and the Office of Disaster Assistance (ODA) took steps to improve staffing levels. Additionally, the Agency has begun the process of acquiring a new FOIA Case Management System to improve efficiencies.

D. Status of Ten Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

No

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

1

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

N/A

TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

Yes.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

N/A

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

N/A

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

SBA had 5 consults pending from 2020 and closed 2.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

See #21

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.

The primary obstacle for not closing the ten oldest initial requests, appeals and consultations has been available FOIA resources throughout SBA, and the volume of requests compared to previous years. In addition, SBA has had a significant increase in FOIA litigation over the past two years, most involving large volumes of complex electronic records, which has also diverted resources away from addressing the FOIA backlog.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

F. Success Stories

Out of all the activities undertaken by your agency since March 2021 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas but should not be something that you have reported in a prior year. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

While SBA continues to work to find ways to promote efficiencies, increase transparency and improve overall FOIA administration, during this reporting cycle, we would like to highlight the re-implementation of web based FOIA training for the Agency. Additionally, the Agency proactively disclosed information regarding new funding programs for small businesses due to the Coronavirus pandemic.